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12 DEC 2007

In re Application of :
DAUVOIS, Jean-Luc :
U.S. Application No.: 10/538,725 :
PCT No.: PCT/FR03/50181 :
Int. Filing Date: 16 December 2003 :
Priority Date: 17 December 2002 :
Attorney Docket No.: 11354/091001 :
For: METHOD FOR ACCESS CONTROL IN :
DIGITAL PAY TELEVISION :

DECISION

This decision is in response to the "Second Renewed Petition Under 37 CFR § 1.47(b)" filed with the DO/EO/US on 03 October 2007.

BACKGROUND

On 03 May 2007, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. Petitioner failed to meet item (5) of 37 CFR 1.47(b).

On 03 October 2007, petitioner submitted a second renewed petition which was accompanied by, *inter alia*, English translations of several exhibits; an email from Seema Mehta dated 26 July 2007; a declaration by Christophe Oddoua; copies of organizational charts; and several other exhibits.

DISCUSSION

As previously indicated, a petition under 37 CFR 1.47(b) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventor on their behalf and on behalf of the nonsigning joint inventor (5) evidence showing sufficient proprietary interest in the application; and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. Item (5) had not yet been completed.

The 37 CFR 1.47(b) applicant failed to satisfy item (5) of 37 CFR 1.47(b) in the prior petition because petitioner did not establish that the present invention was made during the time and scope of Mr. Dauvois' employment. It was also noted that Mr. Dauvois was employed by Canal+Technologies until 06 September 2002 but that

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French application (FR02/15978) which PCT/FR03/50181 claims priority to was not filed until 17 December 2002. Petitioner was also requested to submit English translations of several exhibits.

In the renewed petition, the 37 CFR 1.47(b) applicant provided the English translations of the exhibits as requested. It is not clear how these exhibits are relevant as they discuss other applications. Petitioner also states that the delay in filing the French priority application was as a result of it being prepared and filed by in-house counsel. As such, Mr. Dauvois was still the inventor despite no longer working at Canal+ Technologies.

Nonetheless, item (5) still has not been met.

The e-mail from Nathalie Zaugg to Seema Mehta indicates that the reference number I2002-013 listed in the "Transaction Protocol" corresponds to the instant application. However, no first-hand statement from Nathalie Zaugg describing how she reached this conclusion has been provided. Additionally, a translation of the last portion of the last page of the "Transaction Protocol" after paragraph 8, including the handwritten portions, has not been provided. Thus, it is still not clear whether the present invention was made during the time and scope of Mr. Dauvois' employment. See MPEP 409.03(f). In addition, the declaration of Christophe Oddou and the accompanying organizational charts have been considered. However, these do not go to whether the *instant* invention was made during the time and scope of Mr. Dauvois' employment.

The prior decision noted that item (4) of 37 CFR 1.47(b) was completed. However, a further review of the papers filed 26 February 2007 notes that the declaration contains foreign language text, but it is not a USPTO form and is not accompanied by a statement that the English text is an accurate translation of the foreign text. See 37 CFR 1.69(b). As such, the declaration cannot be accepted; item (4) of 37 CFR 1.47(a) is also not yet satisfied.

CONCLUSION

For the reasons noted above, the second renewed petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

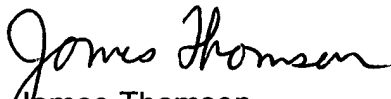
If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

For a grantable petition, the 37 CFR 1.47(b) applicant must provide: (1) a

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statement attesting to the accuracy of the translation of the declaration filed 26 February 2007 pursuant to 37 CFR 1.69(b); and (2) a declaration by a person having first-hand knowledge that the subject invention was made by Mr. Dauvois' during the time and scope of Mr. Dauvois' employment with Canal+ Technologies.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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